

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

JENNIFER VANDERSTOK, *et al.*,

Plaintiffs,

v.

MERRICK GARLAND, in his official
capacity as Attorney General of the United States;
et al.,

Defendants.

Civil Action No. 4:22-cv-00691-O

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION
(ORAL ARGUMENT REQUESTED)

Pursuant to Federal Rule of Civil Procedure 65, Northern District of Texas Local Civil Rule 7.1, and 5 U.S.C. § 705, Plaintiffs Jennifer VanDerStok; Michael G. Andren; Tactical Machining, LLC; and Firearms Policy Coalition, Inc., through their undersigned counsel, move this honorable Court for a preliminary injunction prohibiting Defendants and their officers, agents, servants, and employees from implementing and enforcing the provisions established and amended by the Department of Justice and Bureau of Alcohol, Tobacco, Firearms, and Explosives' Final Rule entitled *Definition of "Frame or Receiver" and Identification of Firearms* ("Final Rule"), 87 Fed. Reg. 24,652 (Apr. 26, 2022), and/or to postpone the effective date of the Final Rule.

Plaintiffs' counsel has conferred with counsel for Defendants, who oppose the relief requested herein. In conferring with Defendants' counsel, Plaintiffs' counsel also requested that Defendants voluntarily postpone the effect date of the Final Rule pursuant to 5 U.S.C. § 705, to avoid the need for this Motion. 5 U.S.C. § 705. ("When an agency finds that justice so requires, it

may postpone the effective date of action taken by it, pending judicial review.”). Defendants’ counsel indicated Defendants would not voluntarily postpone the effective date.

In support of this Motion, Plaintiffs concurrently file a Brief in Support of Plaintiffs’ Motion for Preliminary Injunction along with supporting documentation pursuant to Northern District of Texas Local Civil Rule 7.1(d). Plaintiffs request oral argument on this Motion, given this Motion addresses the highly technical nature of the Final Rule and its impacts that, if not enjoined, threaten to greatly and irreparably harm Plaintiffs.

Relevant to this Motion, there are two pending motions for the same relief against the same Final Rule in other district courts. In *Division 80, LLC v. Garland*, the motion for a preliminary injunction is fully briefed and was argued on August 9, 2022. No. 3:22-cv-00148 (S.D. Tex.). The court has not yet ruled on that motion. In *Morehouse Enterprises, LLC v. Bureau of Alcohol, Tobacco, Firearms and Explosives*, defendants filed their response in opposition to plaintiffs’ motion on August 15, 2022. No. 3:22-cv-00116 (D.N.D.). The plaintiffs have not yet filed a reply, which is currently due by August 19, 2022, and the court has not yet ruled on the motion. The court set a status conference on the motion for August 19, 2022.

DATED this 17th day of August, 2022.

Respectfully submitted,

/s/ R. Brent Cooper

R. Brent Cooper
Texas Bar No. 04783250
COOPER & SCULLY, P.C.
900 Jackson Street, Suite 100
Dallas, TX 75202
Telephone: (214) 712-9500
Telecopy: (214) 712-9540

Cody J. Wisniewski* (CO Bar No. 50415)
FIREARMS POLICY COALITION
5550 Painted Mirage Road, Suite 320
Las Vegas, NV 89149
Telephone: (916) 378-5785
Telecopy: (916) 476-2392
cwi@fpchq.org

Kaitlyn D. Schiraldi* (TN Bar No. 039737)
Erin M. Erhardt* (CO Bar No. 49360)
MOUNTAIN STATES LEGAL FOUNDATION
2596 S. Lewis Way
Lakewood, CO 80227
Telephone: (303) 292-2021
Telecopy: (877) 349-7074
kschiraldi@mslegal.org
eerhardt@mslegal.org

*Admitted *pro hac vice*

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that, on August 17, 2022, a true and correct copy of the foregoing document was served via the Court's CM/ECF system to all counsel of record. A courtesy copy was also emailed to Daniel Riess with the U.S. Department of Justice, Civil Division, whom Plaintiffs' counsel emailed regarding this Motion and to ascertain Defendants' position.

/s/ R. Brent Cooper

R. Brent Cooper
COOPER & SCULLY, P.C.

CERTIFICATE OF CONFERENCE

I hereby certify that, on August 17, 2022, I conferred with Defendants' counsel, Daniel Riess, via email, who stated that Defendants oppose this Motion.

/s/ R. Brent Cooper

R. Brent Cooper
COOPER & SCULLY, P.C.